

Department of Energy

§ 603.645

project contemplated by the agreement. Generally, elements of cost that appropriately are charged are those identified with RD&D activities under the Generally Accepted Accounting Principles (see Statement of Financial Accounting Standards Number 2, "Accounting for Research and Development Costs," October 1974). Moreover, costs must be allocated to DOE and other projects in accordance with the relative benefits the projects receive. Costs charged to DOE projects must be given consistent treatment with costs allocated to the participants' other RD&D activities (e.g., activities supported by the participants themselves or by non-Federal sponsors).

(2) Are consistent with the purposes stated in the governing Congressional authorizations and appropriations. The contracting officer is responsible for ensuring that provisions in the award document address any requirements that result from authorizations and appropriations.

§ 603.630 Use Federally approved indirect cost rates for for-profit firms.

In accordance with the general policy in § 603.605, the contracting officer must require a for-profit participant that has federally approved indirect cost rates for its Federal procurement contracts to use those rates to accumulate and report costs under an expenditure-based TIA. This includes both provisional and final rates that are approved up until the time that the TIA is closed out.

§ 603.635 Cost principles for nonprofit participants.

So as not to force financial system changes for any nonprofit participant, an expenditure-based TIA will provide that costs to be charged to the RD&D project by any nonprofit participant must be determined to be allowable in accordance with:

(a) OMB Circular A-87, if the participant is a State or local governmental organization;

(b) OMB Circular A-21, if the participant is an institution of higher education;

(c) 45 CFR Part 74, Appendix E, if the participant is a hospital; or

(d) OMB Circular A-122, if the participant is any other type of nonprofit organization (the cost principles in 48 CFR parts 31 and 231 are to be used by any nonprofit organization that is identified in Circular A-122 as being subject to those cost principles).

§ 603.640 Audits of for-profit participants.

If the TIA is an expenditure-based award, the contracting officer must include in it an audit provision that addresses, for each for-profit participant:

(a) Whether the for-profit participant must have periodic audits, in addition to any award-specific audits, as described in § 603.645;

(b) Whether the Defense Contract Audit Agency (DCAA) or an independent public accountant (IPA) will perform required audits, as discussed in § 603.650;

(c) How frequently any periodic audits are to be performed, addressed in § 603.655; and

(d) Other matters described in § 603.660, such as audit coverage, allowability of audit costs, auditing standards, and remedies for noncompliance.

§ 603.645 Periodic audits and award-specific audits of for-profit participants.

The contracting officer needs to consider requirements for both periodic audits and award-specific audits (as defined in § 603.1295 and § 603.1220, respectively). The way that an expenditure-based TIA addresses the two types of audits will vary, depending upon the type of for-profit participant.

(a) For for-profit participants that are audited by the DCAA or other Federal auditors, as described in §§ 603.650(b) and 603.655, specific requirements for periodic audits need not be added because the Federal audits should be sufficient to address whatever may be needed. The inclusion in the TIA of the standard access-to-records provision for those for-profit participants, as discussed in § 603.910(a), gives the necessary access in the event that the contracting officer later needs to request audits to address award-specific issues that arise.

(b) For each other for-profit participant, the contracting officer:

(1) Should require that the participant have an independent auditor (i.e., the DCAA or an independent public accountant (IPA)) conduct periodic audits of its systems if it expends \$500,000 or more per year in TIAs and other Federal assistance awards. A prime reason for including this requirement is that the Federal Government, for an expenditure-based award, necessarily relies on amounts reported by the participant's systems when it sets payment amounts or adjusts performance outcomes. The periodic audit provides some assurance that the reported amounts are reliable.

(2) Must ensure that the award provides an independent auditor the access needed for award-specific audits, to be performed at the request of the contracting officer if issues arise that require audit support. However, consistent with the government-wide policies on single audits that apply to non-profit participants (see § 603.665), the contracting officer should rely on periodic audits to the maximum extent possible to resolve any award-specific issues.

§ 603.650 Designation of auditor for for-profit participants.

The auditor identified in an expenditure-based TIA to perform periodic and award-specific audits of a for-profit participant depends on the circumstances, as follows:

(a) The Federal cognizant agency or an IPA will be the auditor for a for-profit participant that does not meet the criteria in paragraph (b) of this section. Note that the allocable portion of the costs of the IPA's audit may be reimbursable under the TIA, as described in § 603.660(b). The IPA should be the one that the participant uses to perform other audits (e.g., of its financial statement), to minimize added burdens and costs.

(b) Except as provided in paragraph (c) of this section, the Federal cognizant agency (e.g., DCAA) must be identified as the auditor for a GOCO or FFRDC and for any for-profit participant that is subject to Federal audits because it is currently performing under a Federal award that is subject to the:

(1) Cost principles in 48 CFR part 31 of the Federal Acquisition Regulation (FAR); or

(2) Cost Accounting Standards in 48 CFR Chapter 99.

(c) If there are programmatic or business reasons that justify the use of an auditor other than the Federal cognizant agency for a for-profit participant that meets the criteria in paragraph (b) of this section, the contracting officer may provide that an IPA will be the auditor for that participant in which case the reasons for this decision must be documented in the award file.

§ 603.655 Frequency of periodic audits of for-profit participants.

If an expenditure-based TIA provides for periodic audits of a for-profit participant by an IPA, the contracting officer must specify the frequency for those audits. The contracting officer should consider having an audit performed during the first year of the award, when the participant has its IPA do its next financial statement audit, unless the participant already had a systems audit due to other Federal awards within the past two years. The frequency thereafter may vary depending upon the dollars the participant is expending annually under the award, but it is not unreasonable to require an updated audit every two to three years to verify that the participant's systems continue to be reliable (the audit then would cover the two or three-year period between audits).

§ 603.660 Other audit requirements.

If an expenditure-based TIA provides for audits of a for-profit participant by an IPA, the contracting officer also must specify:

(a) What periodic audits are to cover. It is important to specify audit coverage that is only as broad as needed to provide reasonable assurance of the participant's compliance with award terms that have a direct and material effect on the RD&D project.

(b) Who will pay for periodic and award-specific audits. The allocable portion of the costs of any audits by IPAs may be reimbursable under the TIA. The costs may be direct charges or allocated indirect costs, consistent